IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPLICANT(S):	Couts, Jeffrey, et al.	)
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SERIAL NO.:	10/036,790	)
		)
FILED:	December 21, 2001	)
		)
TITLED:	System and Method For Automatically Forwarding a Communication Message	)
		)
EXAMINER:	Choudhury, Azizul Q.	)
		)
GROUP:	2145	)
		)
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APPELLANTS' BRIEF UNDER 37 CFR 41.37

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I. REAL PARTY IN INTEREST

The party named in the caption of this brief, namely Motorola Inc., is the real party in interest, the assignment of which was recorded on December 21, 2001, REEL/FRAME: 012441/0349.

II. RELATED APPEALS AND INTERFERENCES

There are no other appeals of interferences known to the Applicant, the Applicant's legal representative, or assignee, which would directly affect or be directly affected by or having a bearing on the Board's decision in this pending appeal.

III. STATUS OF CLAIMS

Claims 1 through 21, 23 and 24 are rejected under 35 USC §103(a) as being unpatentable over U.S. Patent Application Publication No. US 2002/0078151 A1 (Wickam, et al.) in view of U.S. Patent No. US 6,430,604 B1 (Ogle, et al.).

Claims 1 through 21, 23 and 24 are being appealed.

IV. STATUS OF AMENDMENTS

No amendments have been filed subsequent to final rejection.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Claims 1 through 21, 23 and 24 stand or fall together.

One aspect of the present invention relates to a method for a data network system for forwarding a communication message intended for a target device associated with a target user to another device (FIG 2 of the drawings, and page 5, lines 2-4, of the specification). A communication message is received from an originating device (FIG. 2, step 204, of the drawings, and page 12, lines 3-5, of the specification). Configuration information and presence information of the target device are retrieved, in which the configuration information includes a forwarding list identifying at least one next device (FIG. 2, step 206, of the drawings, and page 12, lines 9-19, of the specification). Whether the target device is available for text messaging with the originating device is determined based on the presence information (FIG. 2, step 208, of the drawings, and page 13, lines 1-3, of the specification). The communication message is routed to the target device if the target device is available for text messaging with the originating device (FIG. 2, step 210, of the drawings, and page 13, lines 7-9, of the specification). The

communication message is forwarded to a particular next device, associated with a next user, of the at least one next device of the forwarding list if the target device is unavailable for text messaging with the originating device (FIG. 2, step 224, of the drawings, and page 14, lines 5-7, of the specification). The forwarding list is a contact or buddy list for an instant messaging system (FIG. 1 of the drawings, and page 7, lines 3-4, of the specification).

Another aspect of the present invention relates to a data network system for forwarding a select message communicated by a mobile station to at least one other mobile station (FIG 1 of the drawings, and page 5, lines 2-4, of the specification). The data network system comprises a messaging server for communicating with a plurality of devices, the messaging server being capable of routing a communication message from an originating device to a target device associated with a target user (server 112 of FIG. 1, of the drawings, and page 7, lines 8-16, of the specification). The data network further comprises a messaging proxy coupled to the messaging server, the messaging proxy having access to a database that includes a forwarding list of the target device that identifies at least one next device, the messaging proxy being effective to determine whether the target device is available for text messaging with the originating device based on presence information of the target device, route the communication message to the target device if the target device is available for text messaging with the originating device, and forward the communication message to a particular next device of the at least one next device of the forwarding list if the target device is unavailable for text messaging with the originating device, the forwarding list is a contact or buddy list for an instant messaging system (proxy 120 of FIG. 1 and steps 204, 206, 208, 210 & 224 of FIG. 2 of the drawings, and page 8, lines 10-22, and page 12, line 3, through page 14, line 10, of the specification). The messaging proxy selects a next user from the forwarding list until an available next user is found (page 14, line 11, through page 15, line 7, of the specification).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether the Examiner erred in finding claims 1 through 21, 23 and 24 are unpatentable under 35 U.S.C. §103(a) as being obvious in view of U.S. Patent Application Publication No. US 2002/0078151 A1 (Wickam, et al.) and U.S. Patent No. US 6,430,604 B1 (Ogle, et al.).

VII. ARGUMENT

Claims 1 – 21 and 23 – 24 under 35 U.S.C. §103(a), as being unpatentable over US Pub. No: US 2002/0078151A1 (Wickman et al.) in view of US Pat No: US006430604B1 (Ogle et al.). However, contrary to the Examiner's assertions, the combination of references fail to make known or obvious each and every feature of the claims, as presently pending. More specifically, the Examiner relies upon the second reference, US Patent No. US006430604B1 (Ogle et al.), for being obvious over the claimed feature of "forwarding the communication message to a particular next device, associated with a next user, of the at least one next device of the forwarding list if the target device is unavailable for text messaging with the originating device, wherein the forwarding list is a contact or buddy list for an instant messaging system" (Claim 1) or a messaging proxy coupled to messaging server and being effective to "forward the communication message to a particular next device of the at least one next device of the forwarding list if the target device is unavailable for text messaging with the originating device, the forwarding list is a contact or buddy list for an instant messaging system, wherein the messaging proxy selects a next user from the forwarding list until an available next user is found" (Claim 17).

Where the present application forwards the communication message to a particular next device, associated with a next user, the secondary reference relies upon forwarding a message on a particular alternate delivery mechanism associated with the recipient. Please see Ogle, col. 3, lines 5 – 20; as specifically discussed on page 8 of the Applicant's after non-final response dated May 04, 2007. More specifically, Ogle while describing FIG's. 3 and 4 in col. 7 – 9 describes that registry contains entries related to four IMS users. Ogle discloses in FIG. 3 about the alternate delivery mechanisms using which; a user can be reached or contacted if the user is not logged on. In addition, Ogle describes that an IMS server (i.e. IMS 403 in Ogle) will locate an entry for a target user who is not logged on from the registry (i.e. registry 300) and forward a message to the targeted user's alternate delivery mechanism, as registered in the registry. Hence, Ogle does not teach or suggests Applicant's claimed invention of "forwarding the communication message to a particular next device, associated with a next user". Ogle merely teaches of forwarding the message to the targeted user's alternate delivery mechanism if the targeted user is not logged on. Ogle does not teach of forwarding this message to a next device, wherein the next device is associated with a next user.

More specifically, the Examiner asserts that the secondary reference teaches how an instant messaging system is able to use its registry, which the Examiner purports to compare with Applicant's buddy list. In contrast, Ogle in FIG. 3 describes alternate delivery mechanisms associated with the same user and does not teach or suggest the user's buddy list comprising alternate users to whom the communication message may be forwarded. Consequently, the communication message not only is not forwarded to a next user based upon the buddy list, but the buddy list is not a list containing alternate users to whom the message can be delivered. Therefore, the combination of references cannot be said to be obvious.

In addition, the Examiner also compares Ogle's ability to send a message to more than one recipient to Applicant's forwarding of the message to a next user. Applicant disagrees with the Examiner's comparison. Ogle in col. 11, lines 52 – 54 describes that it may be desirable to allow messages to be delivered to multiple recipients, each of which may use a different alternative delivery mechanism. However, such an interpretation fails to account for forwarding the communication message to a particular next device associated with a next user, if the target device is unavailable in the claims and the associated features therewith, that are present in the claims. Ogle's message is intended to be sent to multiple recipients and not forward the message to the next user if the target user is unavailable. Consequently, the cited reference fails to relate to the claims at a most basic level, where it cannot be said that the message sent to more than one recipient as taught or suggested by the cited reference is equivalent to the forwarding the communication message featured in the claims.

Therefore, the features alleged by the Examiner to relate to "forwarding the communication message to a particular next device, associated with a next user", alternatively serve to define a respective element in the claims with structural and organizational effect, which in turn relate to a claimed context and corresponding interaction between elements, which is neither anticipated nor obviated by the teachings of the relied upon references cited by the Examiner in support of the rejection. As a result, the Examiner has failed to make known or obvious each and every feature with respect to each of the independent claims, as well as any of the claims which depend therefrom.

In view of the above remarks, the applicants would respectfully request that the Examiner's final rejection of the claims be withdrawn, as failing to make known or obvious each

and every feature of the claims, in addition to failing to attempt to suggest that each and every feature of the claims is known or obvious, in view of the relied upon reference.

For the reason set forth above, Applicant respectfully requests reconsideration of the claims as pending in view of the above remarks.

Respectfully submitted,

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VIII. CLAIMS APPENDIX

1. A method for a data network system for forwarding a communication message intended for a target device associated with a target user to another device, the method comprising the steps of:

receiving a communication message from an originating device;

retrieving configuration information and presence information of the target device, the configuration information including a forwarding list identifying at least one next device;

determining whether the target device is available for text messaging with the originating device based on the presence information;

routing the communication message to the target device if the target device is available for text messaging with the originating device; and

forwarding the communication message to a particular next device, associated with a next user, of the at least one next device of the forwarding list if the target device is unavailable for text messaging with the originating device, wherein the forwarding list is a contact or buddy list for an instant messaging system.

2. The method of claim 1, further comprising the step of configuring the configuration data of the target device before the step of receiving the communication message from the originating device.

3. The method of claim 1, further comprising the step of retrieving status information of at least one of the originating device and the target device, wherein the step of determining whether the target device is available for text messaging includes the step of comparing the status information against the configuration data to determine whether the target device is available for text messaging.

4. The method of claim 3, wherein the status information includes a location of the target device.

5. The method of claim 1, further comprising the step of determining whether the originating device is present on the forwarding list.

6. The method of claim 1, further comprising the step of identifying the particular next device as having a highest priority among the at least one next device of the forwarding list.

7. The method of claim 1, further comprising the steps of:

determining that the particular next device is not available to receive the communication message; and

selecting another next device of the at least one next device.

8. The method of claim 7, further comprising the step of forwarding the communication message to the another next device, instead of the particular next device, if the another next device is available for text messaging with the originating device.

9. The method of claim 1, wherein the forwarding list identifies next devices in order of priority as pre-configured for the target device.

10. The method of claim 1, wherein the forwarding list identifies next devices in order of priority based on a proximity of the next devices relative to one of either the originating device or the target device.

11. The method of claim 1, further comprising the step of prohibiting, by the originating device, forwarding of messages, received from the originating device, to other devices.

12. The method of claim 1, further comprising the step of receiving authorization from the originating device before forwarding the communication message to the particular next device.

13. The method of claim 1, further comprising the step of identifying a mark, by the originating device, in the communication message indicating that the communication message may not be forwarded to other devices.

14. The method of claim 1, further comprising the step of receiving authorization from the particular next device before the target device adds the particular next device to the forwarding list.

15. The method of claim 1, further comprising the step of modifying the communication message before forwarding the communication message to the particular next device.

16. The method of claim 15, wherein the communication message is modified to prevent the communication message from divulging an identity of the originating device to the particular next device.

17. A data network system for forwarding a select message communicated by a mobile station to at least one other mobile station, the data network system comprising:

a messaging server for communicating with a plurality of devices, the messaging server being capable of routing a communication message from an originating device to a target device associated with a target user; and

a messaging proxy coupled to the messaging server, the messaging proxy having access to a database that includes a forwarding list of the target device that identifies at least one next device, the messaging proxy being effective to determine whether the target device is available for text messaging with the originating device based on presence information of the target device, route the communication message to the target device if the target device is available for text messaging with the originating device, and forward the communication message to a particular next device of the at least one next device of the forwarding list if the target device is unavailable for text messaging with the originating device, the forwarding list is a contact or buddy list for an instant messaging system,

wherein the messaging proxy selects a next user from the forwarding list until an available next user is found.

18. The data network system of claim 17, wherein the messaging proxy is incorporated within the messaging server.

19. The method of claim 17, wherein the database is stored in the messaging server.

20. The method of claim 17, wherein the database is stored in the messaging proxy.

21. The data network system of claim 17, wherein the messaging proxy determines that the originating device allows forwarding of messages.

22. (Canceled)

23. The data network system of claim 17, wherein the forwarding list identifies next devices in order of priority as pre-configured for the target device.

24. The data network system of claim 17, wherein the forwarding list identifies next devices in order of priority based on a proximity of the next devices relative to one of either the originating device or the target device.

IX. EVIDENCE APPENDIX

No evidence has been submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132, entered by the examiner and relied upon by the appellant in the appeal, or relied upon by the examiner as to grounds of rejection to be reviewed on appeal.

X. RELATED PROCEEDINGS APPENDIX

No decisions have been rendered by a court of the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of 37 C.F.R. § 41.37.